

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Petition for Rulemaking to Amend)	MB Docket No. 12-121
The Commission's Over the Air)	
Reception Device ("OTARD") Rules)	
_____)	

REPLY COMMENTS OF SKYWARE GLOBAL

Skyware Global, a leading manufacturer of satellite terminal solutions for a wide range of applications including Direct-To-Home, Ka broadband, Enterprise VSAT, and transportable tactical terminals, respectfully submits these reply comments in support of the Petition for Rulemaking ("Petition") filed by the Satellite Broadcasting and Communications Association, DIRECTV, LLC, and DISH Network, L.L.C. (collectively, "Petitioners").¹

Petitioners seek to amend Section 1.401(c) of the Commission's rules governing restrictions on over-the-air reception devices ("OTARD") located in common areas not within the exclusive use or control of the antenna user² by expressly applying the rule to restrictions imposed *only* by property owners or homeowners' associations.³ Skyware Global agrees with Petitioners that the Commission created the "exclusive use" restriction⁴ in order to address

¹ Petition for Rulemaking to Amend the Commission's Over the Air Reception Device ("OTARD") Rules, Satellite Broadcasting and Communications Association et al., MB Docket No. 12-121 (filed Apr. 18, 2012). *See also, Media Bureau Seeks Comment on Petition for Rulemaking Requesting That the Commission Amend the Over-The-Air Reception Devices Rule to Clarify the Extent to Which Local Governments Can Regulate Non-Exclusive Use Areas*, Public Notice, DA No. 12-278 (rel. May 8, 2012).

² 47 C.F.R. § 1.401(c).

³ *See* Petition at p. 1-2.

⁴ *Id.* at p. 3.

concerns about the rights of property owners to limit satellite antenna placement.⁵ Skyware Global also agrees that the Commission's concerns about property rights do not apply where a state or local government seeks to restrict antenna placement in common areas.⁶ Accordingly, the Commission should amend the rule as suggested by Petitioners to ensure that state or local government is not permitted to infringe upon property owners' rights with respect to common areas.

The Commission has found that Congress intended to ensure full and fair competition among different types of video programming services with the adoption of the OTARD statute.⁷ Unless the Commission amends Section 1.401(c), state or local government could promulgate regulations contrary to the Congressional intent and adversely affect competition.⁸ Such a result cannot be allowed, and therefore, the Commission should amend Section 1.401(c).

Respectfully submitted,

/s/ David McCourt
David McCourt
Chief Executive Officer
Skyware Global
1315 Industrial Park Drive
Smithfield, NC 27577

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⁵ *Id.* at pp. 4-7.

⁶ *Id.* at p. 7.

⁷ *Id.* at 4 (citing *Preemption of Local Zoning Regulation of Satellite Earth Stations and Implementation of Section 207 of the Telecommunications Act of 1996; Restriction on Over-the-Air Reception Devices: Television Broadcast Service and Multichannel Multipoint Distribution Service*, Order 11 FCC Rcd 10276, ¶ 6 (1996)).

⁸ *Id.* at 10; *see also*, Comments of the Satellite Industry Association at p. 3 (filed Jun. 7, 2012).